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Paper No. 14

In re Application of :
Steven G. Smarsh *et al* :
Application No. 09/720,576 : DECISION ON PETITION
Filed: December 22, 2000 :
Attorney Docket No. TruTech P-302 :

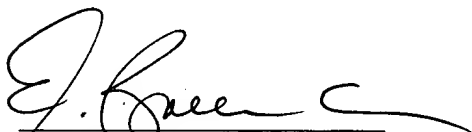
This is a decision on the petition filed by facsimile transmission on October 15, 2004, by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a timely reply to the final Office action dated April 9, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because petitioners did in fact file a timely and proper reply to the Office letter in question. Petitioners support this allegation by submitting a copy of the reply, which reply comprises a 37 CFR 1.114 Request for Continued Examination (RCE) together with a submission in the form of an amendment. Petitioners have also furnished a copy of a petition for a two month extension of time. The reply and petition for extension each have affixed thereto a 37 CFR 1.8(a) certificate of transmission dated September 9, 2003, a date within the period for filing a reply to Office letter in question, as extended. Therefore, it is clear that this application is not abandoned. See 37 CFR 1.8(b). In addition, Office financial records show that the fee for the RCE and the fee for the extension were in fact received.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the RCE, the submission and the petition for extension of time that are attached to the petition. The date to which these papers are entitled is December 1, 2003, with a certificate of mailing date of September 9, 2003. Thereafter, the application will be forwarded to the examiner for immediate consideration and appropriate action.

PETITION GRANTED.


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